

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	8:05CR312
)	
V.)	
)	
VERONICA JIMENEZ,)	MEMORANDUM
)	AND ORDER
Defendant.)	

There is no dispute that the defendant, Veronica Jimenez, has suffered for a long time with a severe mental illness that is essentially incurable. That mental illness produces hallucinations and paranoia and poor decision making. A board certified psychiatrist has reviewed the defendant's medical records and has concluded that the defendant, while sane at the time of her crime, was also psychotic at that time.

Given the facts I heard at trial, given the defendant's mental status, and given her criminal history category of I, it is more likely than not that (1) the defendant committed the offense while suffering from a significantly reduced mental capacity and (2) the significantly reduced mental capacity contributed substantially to the commission of the offense. U.S.S.G. § 5K2.13. In short, I find that the defendant was a mentally ill mule.

Had the defendant accepted responsibility, and told the government what she knew, she would have received 3 points for acceptance of responsibility and 2 points for the safety-valve. This would have reduced her total offense level to 31 with a criminal history of I and provided a Guidelines imprisonment range of 108 to 135 months in prison. It is more likely than not that the defendant's mental illness interfered with her ability to accept responsibility and to qualify for the safety valve. Thus, I believe that a departure to a total offense level of 31, criminal history category

I, is appropriate pursuant to U.S.S.G. § 5K2.13.¹ Since I cannot impose a sentence less than the 120-month mandatory minimum, that is the prison sentence I will impose.

IT IS ORDERED that the defendant's motion for departure or variance (filing 50) is granted as provided herein but is otherwise denied.

September 11, 2006.

BY THE COURT:

s/ Richard G. Kopf
United States District Judge

¹There is insufficient evidence to find that the defendant committed the crime due to voluntary use of an illicit controlled substance.